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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Johnny Wheatcroft, et al.,

10 Plaintiffs,

11 v.

12 City of Glendale, et al.,

13 Defendants.
14

No. CV-18-02347-PHX-MTL

ORDER

NOT FOR PUBLICATION

15 Before the Court is Defendants' Motion for Leave to File Under Partial Seal
16 Defendants' Motion for Summary Judgment (Doc. 247), Defendants' Motion for Leave to
17 File Non-Electronic Exhibits in Support of Defendants' Motion for Summary Judgment
18 (Doc. 248), Plaintiffs' Motion for Leave to File Non-Electronic Exhibits in Support of
19 Plaintiffs' Response to Defendants' Motion for Summary Judgment (Doc. 262),
20 Defendants' Motion for Leave to File Under Partial Seal Defendants' Reply in Support of
21 their Motion for Summary Judgment (Doc. 268), and Defendants' Motion for Leave to File
22 Exhibits in Support of Defendants' Reply in Support of their Motion for Summary
23 Judgment Under Seal (Doc. 269). Neither Defendants nor Plaintiffs filed a response in
24 opposition to any of these motions. The deadline to do so has expired.

25 The Court will first address the motions to seal. Defendants first seek leave to file
26 portions of their Motion for Summary Judgment and their Reply under seal because the
27 pleadings and certain exhibits contain sensitive information as to the minor Plaintiffs in
28 this case and Plaintiff Johnny Wheatcroft's medical records. (Doc. 247 at 2; Doc. 268 at

1 1–2.) Because the Motion for Summary Judgment and Reply deal with a dispositive
2 motion, Defendants “must meet the high threshold showing that ‘compelling reasons’
3 support secrecy.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179–80 (9th
4 Cir. 2006). The Court finds that Defendants have met this standard. *See J.N. v. Or. Dep’t*
5 *of Educ.*, No. 6:19-CV-00096, 2020 WL 589534, at *2 (D. Or. Feb. 5 2020) (finding the
6 protection of a minor’s identity outweighed the presumption in favor of public access to
7 court records); *A.C. v. City of Santa Clara*, No. 13-CV-03276, 2015 WL 4076364, at *2
8 (N.D. Cal. July 2, 2015) (finding that the confidentiality concerns of medical records under
9 the Health Insurance Portability and Accountability Act of 1996 outweighed the
10 presumption in favor of public access to court records). The Court will therefore grant these
11 two motions to seal (Docs. 247, 268).

12 Defendants also seek to file sealed exhibits in support of their Reply. (Doc. 269.)
13 Specifically, Defendants seek to file and seal Exhibits A–E. (*Id.*) These include three
14 exhibits that contain “still frames” of police body worn camera videos and two exhibits in
15 the form of deposition testimony, that rebut Plaintiffs’ response as to the minor’s alleged
16 emotional harm. (*Id.*) As mentioned above, Plaintiffs did not file a response in opposition
17 to this motion to seal. The Court agrees with Defendants that the still frames could be useful
18 in resolving the underlying motion for summary judgment. The Court also agrees that the
19 deposition testimony may be used to rebut arguments raised in Plaintiffs’ response to the
20 motion for summary judgment. Thus, the Court grants Defendants’ motion to file Exhibits
21 A–E under seal.

22 The Court now turns to both Defendants’ and Plaintiffs’ motions to file non-
23 electronic exhibits (Docs. 248, 262). Defendants seek leave to file the following non-
24 electronic exhibits in support of their Motion for Summary Judgment: (1) a compact disc
25 (“CD”) containing Officer Tolbert’s Body Worn Camera Video; (2) a CD containing
26 Officer Schneider’s Body Worn Camera Video; (3) a CD containing Officer Lindsey’s
27 Body Worn Camera Video; and (4) a CD containing Motel 6 Surveillance Video. (Doc.
28 248.) Plaintiffs seek leave to file the same non-electronic exhibits, except Officer Tolbert’s

body worn camera video. (Doc. 262.) The Court ordered the parties to file a joint supplemental brief addressing these non-electronic exhibits. (Doc. 263.) The parties timely filed a responsive brief. (Doc. 264.) After considering that joint supplemental brief, the Court will grant their requests as modified by this Order. The parties shall file the redacted videos, which are publicly available and have been released to the media, unsealed. *See Doe 1 v. McAleenan*, No. 18-CV-02349-BLF-VKD, 2019 WL 5208124, at *1 (N.D. Cal. Oct. 16, 2019). The parties shall also file the unredacted versions of the videos under seal. The motions (Docs. 248, 262) are therefore granted as modified above.

Accordingly,*

IT IS ORDERED granting Defendants' Motion for Leave to File Under Partial Seal Defendants' Motion for Summary Judgment (Doc. 247). An unredacted version of Defendants' Motion for Summary Judgment, and unredacted versions of Exhibits 8, 19, 20, 21, and 22 and non-electronic Exhibits 9, 12, and 13 attached to Defendants' Statement of facts in Support of their Motion for Summary Judgment shall be sealed. As ordered below, redacted versions of Exhibits 9, 12, and 13 shall be filed unsealed.

IT IS FURTHER ORDERED granting Defendants' Motion for Leave to File Non-Electronic Exhibits in Support of Defendants' Motion for Summary Judgment (Doc. 248) as modified above and ordered below.

IT IS FURTHER ORDERED granting Plaintiffs' Motion for Leave to File Non-Electronic Exhibits in Support of Plaintiffs' Response to Defendants' Motion for Summary Judgment (Doc. 262) as modified above and ordered below.

IT IS FURTHER ORDERED granting Defendants' Motion for Leave to File Under Partial Seal Defendants' Reply in Support of their Motion for Summary Judgment (Doc. 268).

IT IS FURTHER ORDERED granting Defendants' Motion for Leave to File Exhibits in Support of Defendants' Reply in Support of their Motion for Summary

* The Court notes that this Order seals certain documents and non-electronic exhibits for summary judgment purposes only. The Court is not inclined to seal anything for trial, should this case proceed to that stage.

Judgment Under Seal (Doc. 269). Defendants shall lodge Exhibits A–E, as referenced in their motion (Doc. 269), to be filed under seal.

IT IS FINALLY ORDERED that by no later than **August 27, 2021**:

1. Defendants shall lodge unredacted versions of their Motion for Summary Judgment (Doc. 245) and unredacted versions of Exhibits 8, 19, 20, 21, and 22 attached to Defendants’ Statement of facts in Support of their Motion for Summary Judgment (Doc. 246) for filing under seal by the Clerk of Court pursuant to this Order.

2. Defendants shall lodge an unredacted version of their Reply in Support of their Motion for Summary Judgment (Doc. 267) for filing under seal by the Clerk of Court pursuant to this Order.

3. Defendants shall lodge unredacted versions of Exhibits A–E outlined in their Motion for Leave to File Exhibits in Support of Defendants’ Reply in Support of their Motion for Summary Judgment Under Seal (Doc. 269) for filing under seal by the Clerk of Court pursuant to this Order.

4. Defendants shall file the four CDs referenced in their motion (Doc. 248) in accordance with the policies and procedures of the Clerk of the Court. Defendants shall file the redacted videos, which are publicly available and have been released to the media, unsealed. Defendants shall also file the unredacted versions of the videos under seal.

5. Plaintiffs shall file the three CDs referenced in their motion (Doc. 262) in accordance with the policies and procedures of the Clerk of the Court. Plaintiffs shall file the redacted videos, which are publicly available and have been released to the media, unsealed. Plaintiffs shall also file the unredacted versions of the videos under seal.

Dated this 16th day of August, 2021.



Michael T. Liburdi
United States District Judge